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Message Text

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ORIGIN EB-04

INFO OCT-01 SS-14 ISO-00 EUR-08 L-01 H-01 TRSE-00
NSCE-00 PM-03 INR-05 CIAE-00 NSAE-00 SSO-00
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DRAFTED BY EB/ITP/EWT:HLCLARKE:ABA
APPROVED BY EUR - WLUERS
EB/EWT - WAROOT L/EUR:JCROOK
EUR/EE - CSCHMIDT
L/EUR - LDAMROSCH
H - PSTAHNKE
COMMERCE/BEWT - MLEVINE (DRAFT)
TREASURY - PMCCARTHY (SUBST.)
STR - ELAPP (INFO)
L/T:AROVINE (SUBS)
----------034130 160325Z /61
O 160206Z FEB 78
FM SECSTATE WASHDC
TO AMEMBASSY BUDAPEST IMMEDIATE
AMEMBASSY PARIS IMMEDIATE

C O N F I D E N T I A L STATE 040776

LIMDIS, USOECD FOR DAS BARRACLOUGH

E.O. 11652: GDS

TAGS: EEWT, HU

SUBJECT: MFN AND HUNGARY'S CEMA TRADING REGULATIONS

REF: A) BUDAPEST 622; B) BRUSSELS 02700

1. EMBASSY BUDAPEST SHOULD CONFIRM TO HUNGARIAN GOVERNMENT (GOH) THAT WE ACCEPT THE CONDITIONS REGARDING THE AGREED MINUTE SOUGHT BY DEPUTY MINISTER TOROK (AS REPORTED PARAGRAPH CONFIDENTIAL

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5, BUDAPEST 622), WHICH WE UNDERSTAND AS FOLLOWS.

(A). WE DO NOT CONSIDER THE MINUTE TO BE BINDING OBLIGATION. IT DOES NOT ADD TO HUNGARY'S LEGAL OBLIGATIONS UNDER THE GATT OR THE BILATERAL TRADE AGREEMENT.

(B). WE DO NOT REPEAT NOT INTEND TO USE THE MINUTE IN A

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MANNER WHICH WOULD EMBARRASS HUNGARY IN ITS CEMA RELATIONS. WE CONSIDER IT TO BE A RECORD OF PART OF THE NEGOTIATIONS, WHICH WE WOULD PROVIDE TO THE CONGRESS AT AN APPROPRIATE TIME AND WHICH WE EXPECT WOULD BE PUBLISHED IN DUE COURSE AS PART OF THE ADMINISTRATION'S TESTIMONY IN SUPPORT OF THE TRADE AGREEMENT.

2. WE REALIZE THERE MAY BE AN ADVANTAGE TO US (AND PERHAPS TO THE HUNGARIAN DELEGATION AS WELL) IN RETAINING SOME AMBIGUITY IN OUR PROMISE NOT TO USE THE MINUTE AGAINST HUNGARY WHILE INSISTING THAT IT BECOME A PART OF THE PUBLIC RECORD OF THE NEGOTIATIONS. IF PRESSED BY GOH FOR FURTHER CLARIFICATION OF THE CIRCUMSTANCES UNDER WHICH THE AGREED MINUTE WOULD BECOME PUBLIC, EMBASSY MAY DRAW UPON THE FOLLOWING TO THE EXTENT NECESSARY.

(A). SINCE THE AGREED MINUTE WOULD NOT BE A PART OF THE TRADE AGREEMENT, THE ADMINISTRATION WOULD NOT TRANSMIT THE MINUTE TO CONGRESS WITH THE FORMAL TRADE AGREEMENT PACKAGE FOR APPROVAL. ONCE THE AGREEMENT IS APPROVED, TRANSMITTAL OF THE MINUTE WOULD NOT BE REQUIRED UNDER THE CASE ACT, AND IT WOULD NOT BE PUBLISHED IN THE "TREATIES AND OTHER INTERNATIONAL AGREEMENTS" SERIES.

(B). WE CONSIDER THE AGREED MINUTE, LIKE ALL OUR RECORDS OF THE NEGOTIATIONS, TO BE CONFIDENTIAL UNTIL IT AND THE CONFIDENTIAL

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TRADE AGREEMENT ARE SIGNED. AFTER THAT TIME, THE MINUTE AND OTHER SIGNED DOCUMENTS WOULD NOT BE CLASSIFIED, AND TECHNICALLY THEY WOULD BE AVAILABLE TO ANYONE WHO ASKED FOR THEM UNDER THE FREEDOM OF INFORMATION ACT. WE DO NOT HOWEVER, HAVE ANY REASON TO ANTICIPATE SUCH A REQUEST.

(C). WE RESERVE THE RIGHT TO REFER TO THE MINUTE IN CONSULTATION WITH AND IN TESTIMONY BEFORE THE CONGRESS. WE WANT TO BE FORTHCOMING IN PRIVATE MEETINGS WITH CONGRESS, AND WE WANT TO BE ABLE TO PROVIDE COPIES OF THE MINUTE IN ADVANCE OF HEARINGS IF REQUESTED. WE WILL IN ANY CASE BE PREPARED TO ANSWER QUESTIONS ABOUT THE HUNGARIAN TARIF IN ADMINISTRATION TESTIMONY, AND WILL NEED TO BE IN A POSITION TO SUBMIT THE MINUTE ITSELF FOR THE RECORD OF THE HEARINGS. WE CANNOT EXCLUDE THE POSSIBILITY THAT THE MINUTE WOULD THEN ATTRACT SOME ATTENTION, BUT WE BELIEVE THIS RISK IS A REASONABLE ONE FOR THE HUNGARIAN GOVERNMEN SUPPORTERS OF MFN FOR HUNGARY IN CONGRESS ARE LIKELY TO B SYMPATHETIC TO HUNGARIAN CONCERNS ABOUT HANDLING THE MINUTE AND, IF MFN IS ATTACKED ON THE ISSUE OF CEMA TRADE BOTH WE AND GOH WILL CLEARLY NEED TO HAVE A DOCUMENT WE CAN MAKE PUBLIC TO ANSWER THE CRITICS.

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3. IF GOH SHOULD SEEK TO RENEGOTIATE THE TEXT OR CONDITIONS OF THE AGREED MINUTE, EMBASSY SHOULD DECLINE TO DO SO, DRAWING UPON THE FOLLOWING ARGUMENTS.

(A). WHILE WE UNDERSTAND THE HUNGARIAN DELEGATION'S ECONOMIC ARGUMENTS THAT CEMA TRADE IS UNLIKELY TO AFFECT THE MARKET FOR U.S. EXPORTS IN HUNGARY, THE UNEVEN APPLICATION OF ITS TARIFF TO PRODUCTS FROM ITS MAJOR TRADING PARTNERS REMAINS AN OBVIOUS FACTOR IN THE OVERALL BALANCE OF THE AGREEMENT. WE OO NOT SEE HOW WE CAN ASK CONGRESS TO APPROVE MFN FOR HUNGARY UNLESS WE CAN SHOW THAT WHAT WE WILL RECEIVE IN RETURN IS SUBSTANTIALLY EQUIVALENT.

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(B). THE ADMINISTRATION'S CREDIBILITY IN DEFENDING THE AGREEMENT WILL BE WEAKENED IF WE ARE REQUIRED TO MAKE STATEMENTS ABOUT THE HUNGARIAN TARIFF SITUATION WHICH THE HUNGARIAN GOVERNMENT IS NOT PREPARED TO MAKE.

(C). WE DOUBT THAT A WEAKENING OF THE PRESENT TEXT WOULD BE IN HUNGARIAN OR U.S. INTEREST, SINCE A WEAKER VERSION WOULD INVITE NEW QUESTIONS ABOUT HUNGARY'S PRACTICE OR INTENTIONS IN THIS AREA.

(D). IN ANY EVENT, WE ARE NOT PREPARED TO RECONSIDER THE LANGUAGE OR CONDITIONS EXCEPT AS PART OF THE NEGOTIATIONS ON THE AGREEMENT AS A WHOLE, WHEN THESE RESUME DURING THE WEEK OF FEBRUARY 27.

4. FOR DAS BARRACLOUGH: WE BELIEVE THIS POSITION IS CONSISTENT WITH YOUR DISCUSSION WITH DEPUTY MINISTER TOROK ON FEBRUARY 10 AND YOUR REMARKS TO THE HUNGARIAN DELEGATION AT THE WORKING GROUP MEETING ON FEBRUARY 11. PLEASE CONFIRM. VANCE

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